

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Delene Bromirski	Team: Team # 8	CCRB Case #: 200412168	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 11/25/2004 12:20 PM	Location of Incident: Citgo gas station on the corner of Frances Lewis Boulevard and South Conduit	Precinct: 105	18 Mo. SOL 5/25/2006	EO SOL 5/25/2006	
Date/Time CV Reported Thu, 12/02/2004 10:38 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 12/07/2004 5:23 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Salato	24592	926403	105 PCT
2. POM Matthew Castel	00105	892867	105 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Matthew Castel	Abuse: PO Matthew Castel threatened to issue summons to § 87(2)(b)	
B.POM Anthony Salato	Discourtesy: PO Anthony Salato spoke rudely to § 87(2)(b)	
C.POM Anthony Salato	Off. Language: PO Anthony Salato made remarks to § 87(2)(b) based upon race.	

## Synopsis

§ 87(2)(b) filed this complaint with the CCRB on December 7, 2004 via telephone. On November 25, 2004, § 87(2)(b) was washing his 2002 Lexus at the Citgo gas station located at 243-02 South Conduit Avenue in Queens. PO Anthony Salato and PO Matthew Castel of the 105<sup>th</sup> Precinct were conducting routine patrol of various Houses of Worship throughout Queens that morning. At approximately 12:20 p.m., PO Salato and PO Castel observed § 87(2)(b)'s vehicle parked at the above address on a sidewalk obstructing traffic. PO Castel instructed § 87(2)(b) to move his vehicle to which he refused. § 87(2)(b) alleged that PO Castel then threatened to issue him a summons (Allegation A). After that, § 87(2)(b) called 911 and began to back up his vehicle. PO Salato then exited the police vehicle and asked § 87(2)(b) for his license, registration, and insurance card. After numerous requests, § 87(2)(b) alleged that PO Salato said, "get the fuck off the phone" (Allegation B). Ultimately, § 87(2)(b) surrendered his license and registration. When PO Salato returned from running his information he was issued a summons by PO Castel and placed under arrest by PO Salato for § 87(2)(b). Inside the police van, PO Salato allegedly told § 87(2)(b) to "shut up" and that he was going to jail because he was "a stupid nigger" (Allegation C).

§ 87(2)(g)

## Summary of Complaint

§ 87(2)(b)

§ 87(2)(b) provided his first statement to the 911 operator (enc. 4 A-D) and the IAB Command Center (enc. 5 A) on November 25, 2005 and November 26, 2005 respectively. On January 13, 2004, § 87(2)(b) was interviewed at the CCRB (enc. 9 A-H). § 87(2)(g) is a § 87(2)(b)-old African American male, 5'8" tall and 165 pounds, with black hair and brown eyes.

On November 25, 2005 at approximately 11 a.m., § 87(2)(b) was at a Citgo gas station located between Frances Lewis Boulevard and South Conduit Avenue washing his car near the pressure washers and vacuums (enc. 9 D). The gas station is positioned on a large triangle plot of land. There were approximately 4 other vehicles at the station washing their cars. § 87(2)(b) was at the end of the row closest to the sidewalk and street. In the 911 recording, § 87(2)(b) indicated that the car wash facility is on the sidewalk and that he moved his vehicle to allow other customers into the gas station and was in the process of drying it off when the officers approached him. § 87(2)(b) frequently washes his car at this station but on this date did not recognize any of the individuals present including employees. While he was washing his van a police car entered the gas station to make a U-turn. § 87(2)(b)'s car was blocking them from making the turn. The driver, PO1, asked § 87(2)(b) to move his car. § 87(2)(b) was in the middle of washing the car and told PO1, "Why do I have to move my vehicle, I am not illegally parked?" § 87(2)(b) described PO1 as a white male in his late 40s, heavyset, with black and gray hair. PO1 was in uniform and may have been wearing glasses. His shield number had the following numbers in it: "105." PO1 told him if he did not move he would be issued a summons (Allegation A). § 87(2)(b) questioned PO1 about why he was going to give him a summons. § 87(2)(b) said, "I just wanted to wash my car and go and be with my family, my father's on the job, I'm not trying to give you a hard time, what's the problem, I didn't do anything, why are you harassing me?" PO1 responded, "get in your car and get the hell out of here." Then § 87(2)(b) walked to his vehicle (2002 Lexus SC4), and called 911 on his cellular telephone.

When § 87(2)(b) was on the telephone, PO2 was telling him to get off the telephone and asked him what he was doing. § 87(2)(b) explained the situation to the 911 operator who transferred him to

IAB. PO2 asked him for his driver license and registration. § 87(2)(b) did not want to provide him with that information. The IAB operator took § 87(2)(b)'s telephone number and told him she'd call him back and that he should provide the officer with the requested documents and she'd send a supervisor to the location. § 87(2)(b) told PO2 he needed to look for the documents in his car. PO2 continually asked him for his license and registration, over 11 times according to § 87(2)(b). § 87(2)(b) told him to hold on as he located the documents. At that point, the car was off and his keys were on the car seat. PO2 got angry and yelled, "get the fuck off the phone" (Allegation B). Finally, § 87(2)(b) surrendered his license and registration. In the 911 recording, PO2 asked § 87(2)(b) whether his vehicle was running and § 87(2)(b) replied, "yes." Furthermore, no foul language was used during their conversation.

While PO2 was talking to § 87(2)(b) PO1 was writing out a summons (summons number § 87(2)(b)) for parking on a sidewalk. PO2 went to his vehicle and when he came back to § 87(2)(b) told him he was under arrest and to get out of the car. PO2 told him that his driver's license was suspended. § 87(2)(b) explained to him that he had received a parking summons in May and he had disposition papers for the incident. § 87(2)(b) provided PO2 with documentation from the court indicating that the summons was voided. PO2 looked at the paperwork and said, "I don't care, I don't want to see this, this is not the date." PO2 took § 87(2)(b) out of the car, handcuffed him, and placed him in the police van.

While § 87(2)(b) was in the police van, PO1 took his car and drove it away. § 87(2)(b) did not know where he was taking the car so he asked PO2 where PO1 was going with his car. PO2 told him, "to shut up and be quiet." Then § 87(2)(b) started screaming, "where is he going with my car?" PO2 told § 87(2)(b) to "shut up" and that he was going to jail because he was "a stupid nigger" (Allegation C).

When PO1 returned, § 87(2)(b)'s keys were given to his friend, § 87(2)(b) [last name unknown], who did not witness the incident. § 87(2)(b) had been at Rite Aid when the incident occurred. § 87(2)(b) was not permitted to speak with his friend since he was already in the van. While in the van § 87(2)(b) heard a message come over the radio informing PO2 that a sergeant was on the way and not to move. PO2 was standing outside of the van when he overheard this statement. PO2 told PO1 to move the van to Frances Lewis Boulevard. A female sergeant responded to the scene and talked with the officers. § 87(2)(b) described her as a white female with blond/brown hair in uniform. § 87(2)(b) tried to explain to her what happened and she responded, "tell it to the judge." § 87(2)(b) was subsequently taken to the 105 Precinct.

## **Results of Investigation**

### ***Officer Statements***

#### ***PO Anthony Salato***

On November 25, 2004, PO Anthony Salato's initial statement was audible over the 911 call that § 87(2)(b) placed. PO Salato is a § 87(2)(b)-old Caucasian male, 5'9" tall, 255 pounds, with brown hair and brown eyes. The following is a summary of the conversation between PO Salato and § 87(2)(b). PO Salato asked § 87(2)(b) "is the car running?" § 87(2)(b) replied, "yes." PO Salato then said, "please shut it off" and asked, "were you driving the vehicle?" § 87(2)(b) denied driving. § 87(2)(b) began to give the 911 operator his telephone number, cell § 87(2)(b) but never finished. PO Salato then said, "get off phone." § 87(2)(b) informed PO1 that he was calling the police. PO Salato responded, "That's fine. Please get off phone, I need to speak with you." § 87(2)(b) ignored PO Salato's requests. PO Salato then asked for § 87(2)(b) to please surrender his license, registration and insurance card and said, "you are sitting in running car with the keys in the ignition. Please sir" (enc. 6 A).

PO Salato made the following memo book entry regarding the incident: "1220: Car Stop S. Conduit Avenue and 243 Street. 1231: 1 under. 1240: Sgt. Disclafani on scene – verify. 1240: [signature of

Sgt. Disclafani]" (enc. 10 A-C). PO Salato also had prepared a lengthy statement on the OLBS, "The deft. was drying off his 2002 Lexus NY #§ 87(2)(b) VIN #§ 87(2)(b) after washing it on the public sidewalk on the southeast corner of the South Conduit Ave. and 243 Street. PO Castel shield #105 asked the deft. to move his vehicle off the public sidewalk because it was blocking the driveway of a Citgo gas station located at 243-02 South Conduit Ave. the deft. vehicle was obstructing other vehicles from turning into said gas station. The deft. stated to PO Castel that he will move it only after he finished drying off the said vehicle. PO Castel then began to issue deft. a parking summons for vehicle parked on a sidewalk – VTL 408 E3, summons #§ 87(2)(b), at which time the deft. was observed backing his vehicle up. PO Salato instructed the deft. to stop his vehicle, place it in park and shut the vehicle engine off. PO Salato then requested his driver's license and insurance card in which the deft. refused to comply. PO Salato continued to ask the deft. for said documents and after the 8<sup>th</sup> time requesting, the deft. did hand PO Salato his NYS driver's license. PO Salato continued to request the insurance card from the deft. and after the 14<sup>th</sup> request was told by the deft. that he did not have it in the vehicle. After further investigation it was determined that the deft. NYS driver license was suspended (1 scoff on 1 date). As per the deft. request, his said vehicle keys were given to his friend § 87(2)(b) DOB § 87(2)(b) NYS client IA #§ 87(2)(b). Sgt. Disclafani on scene" (enc. 11 A-C).

PO Salato also filled out a criminal court complaint that was fairly consistent with the above (enc. 12 A-B). On February 15, 2005, PO Anthony Salato was interviewed at the CCRB (enc. 13 A-B). On November 25, 2004, he was assigned to patrol various Houses of Worship in the 105 precinct. His partner for the day was PO Matthew Castel. They were working in a marked van, number 2543. PO Salato was the recorder of the vehicle.

On November 25, 2004 at approximately 12:20 p.m., PO Castel witnessed a vehicle illegally parked on a sidewalk in front of a Citgo gas station, near the car wash facility. PO Castel pulled up along the side of the motorist and asked him to move. He refused and said something to the effect that he'd move when he was good and ready. The motorist was in the process of drying off his car and blocking one of the entrances to the gas station. The way the station is set up it is possible for several people to wash their cars simultaneously without blocking the driveway. PO Castel informed him that he would issue him a summons if he did not move the vehicle. § 87(2)(b) still refused at which point PO Castel exited the van to issue him a summons. § 87(2)(b) got into his car and began to back up. PO Salato was not sure what § 87(2)(b) was doing, specifically if he was trying to leave, so he exited the vehicle and told § 87(2)(b) to shut the car off and put it in park. PO Castel was starting to gather information needed for the summons and PO Salato asked § 87(2)(b) for his license and registration. PO Salato asked § 87(2)(b) a total of 8 times before he surrendered his license and registration. He asked for his insurance card a total of 14 times, before § 87(2)(b) told him that he did not have it with him. During this exchange, § 87(2)(b) told PO Salato that he was on the telephone with 911 and IAB. PO Salato told § 87(2)(b) that he needed his license and registration, regardless of who was on the telephone. PO Salato never told him to "get the fuck off the phone."

After he retrieved § 87(2)(b)'s documents he returned to the van to access the mobile computer system. PO Castel remained near § 87(2)(b) and gave him the summons, summons number § 87(2)(b) in violation of VTL 408 subsection 3 (enc. 14 A). When PO Salato ran § 87(2)(b)'s information it came up that his license was suspended for not paying a summons or not appearing in court. PO Salato stated that under such circumstances the individual is arrested. PO Salato approached § 87(2)(b) and informed him of the situation. § 87(2)(b) was very upset and handed PO Salato documents stating that his license was not suspended. PO Salato looked over the documents and determined that the dates did not correspond to the ones on the computer. PO Salato subsequently arrested § 87(2)(b). He does not recall any behavior out of the ordinary during this process other than § 87(2)(b) cursing and sucking his teeth.

Soon after his arrest, § 87(2)(b)'s friend passed by, § 87(2)(b) (D.O.B. § 87(2)(b)), to whom § 87(2)(b)'s car keys were given. PO Salato could not remember if he or his partner handed § 87(2)(b) the keys to § 87(2)(b)'s car. PO Salato also indicated that one of them might have moved § 87(2)(b)'s car out of the way of traffic. He believes they did and that PO Castel informed § 87(2)(b) Santos of the location of the car. According to PO Salato, § 87(2)(b) did not protest when PO Castel moved his

vehicle. PO Salato never told § 87(2)(b) to shut up and be quiet. PO Salato stated that he never cursed at § 87(2)(b) and race was never a topic of conversation. He did not tell § 87(2)(b) to “shut up” or that he was going to jail because he was “a stupid nigger.” PO Salato stated that he actually had minimal verbal interaction with § 87(2)(b). The only thing discussed with § 87(2)(b) was what he did for a living, in preparation for the arrest report.

After the arrest, the officers were waiting to have a sergeant respond to verify the arrest. They moved the van across the street away from the gas station traffic. Sgt. Disclafani responded. § 87(2)(b) was then transported to the 105 Precinct. PO Salato did not speak with § 87(2)(b) other than necessary for the arrest related processing and paperwork.

#### *PO Matthew Castel*

PO Matthew Castel’s initial statement regarding this incident was on the summons he issued to § 87(2)(b) on November 25, 2004 (enc. 14 A). PO Castel made the following memo book entry regarding the incident: “1220 – Summons 243 Street/Sunrise Highway. 1 under PO Salato” (enc. 15 A-B). On February 15, 2005, PO Matthew Castel was interviewed at the CCRB (enc. 16 A-B). PO Castel is a § 87(2)(b) year-old Caucasian male, 5’9” tall, 300 pounds, with brown hair and brown eyes. On November 25, 2004, he was assigned to patrol various Houses of Worship in the 105 precinct. His partner for the day was PO Anthony Salato. They were working in a marked van, number 5922. PO Castel was the operator of the vehicle. PO Castel’s statement was consistent with that of his partner. He also denied that any profanity or offensive language was used. PO Castel admitted that he informed § 87(2)(b) that he would issue him a summons if he did not move his vehicle.

#### *Police Department Documents*

The 911 and IAB audio recordings, IAB log, OLBS, PO Salato’s criminal court complaint, and summons issued by PO Castel were obtained. Additionally, the roll call (enc. 17 A-B), command entry log (enc. 18 A), prisoner movement slip (enc. 19 A) and the computer system DMV check (enc. 20 A) were obtained. The roll call, command entry log, and the prisoner movement slip all confirmed the subject officer’s involvement in this incident. The DMV query verified that the disposition paperwork provided by § 87(2)(b) did not correspond with the computer system printout.

#### *Conviction History*

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

#### *Officer CCRB History*

PO Salato has no prior substantiated CCRB allegations. In 1992, PO Castel received a command discipline for both a substantiated discourtesy (curse) allegation and a substantiated offensive language (Black) allegation.

### **Conclusions and Recommendations**

#### *Officer Identification*

The roll call confirmed that PO Salato and PO Castel were on duty on November 25, 2004. Arrest paperwork identified PO Salato as one of the subject officers. § 87(2)(b) identified PO Castel by his shield number, 105, as the officer who threatened and then issued him a summons. The summons verified PO Castel’s involvement in the incident. Officer statements further established the subject officer’s interactions with § 87(2)(b) on November 25, 2004.

### *Undisputed Facts*

On November 25, 2004, § 87(2)(b) was washing his 2002 Lexus at the Citgo gas station located at 243-02 South Conduit Avenue in Queens. PO Salato and PO Castel stopped at that location and spoke with § 87(2)(b). PO Castel threatened to issue him a summons if he did not move his vehicle. PO Castel subsequently issued § 87(2)(b) a summons. PO Salato approached § 87(2)(b) who was on the telephone and requested over 10 times for license, registration, and insurance card. After some time § 87(2)(b) gave PO Salato the documents and PO Salato returned to the police van. When PO Salato returned, § 87(2)(b) was issued a summons and arrested for § 87(2)(b). Sgt. Disclafani verified the arrest and § 87(2)(b) was taken to the 105<sup>th</sup> Precinct.

### *Disputed Facts*

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

### *Credibility*

#### *Complainant*

§ 87(2)(b) was adamant that on November 25, 2004, he was not parked illegally on the sidewalk near the Citgo gas station located at 243-02 South Conduit Avenue in Queens or operating a moving vehicle. In the 911 tape recording obtained of § 87(2)(b)'s conversation with PO Salato, § 87(2)(b) admits that he was on the sidewalk with his vehicle was running. Furthermore, the portion of the conversation where § 87(2)(b) alleged that PO Salato cursed at him was recorded. PO Salato did not speak rudely to § 87(2)(b) § 87(2)(g)

#### *Officers*

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

### *Determination of Fact*

On November 25, 2004, § 87(2)(b) was washing his 2002 Lexus at the Citgo gas station located at 243-02 South Conduit Avenue in Queens. PO Salato and PO Castel stopped at that location and observed § 87(2)(b)'s vehicle parked on the sidewalk obstructing traffic. PO Castel threatened to issue him a summons if he did not move his vehicle. § 87(2)(b) refused to move at which point he entered his vehicle and began to back his car up. PO Castel exited the van to prepare the summons and PO Salato exited the van to assist PO Castel. § 87(2)(b) called 911. PO Salato approached § 87(2)(b) who was on the telephone and requested over 10 times for license, registration, and insurance card. PO Salato told him to "get off the phone." After some time § 87(2)(b) gave PO Salato the documents and PO Salato returned to the police van. When PO Salato returned, § 87(2)(b) was issued a summons and arrested for § 87(2)(b). PO Castel moved § 87(2)(b)'s vehicle to a legal parking space and gave his car keys to a friend of his § 87(2)(b) [last name unknown]. During their interaction, PO Salato did not utter any offensive language based upon § 87(2)(b)'s race. Sgt. Disclafani verified the arrest and § 87(2)(b) was taken to the 105<sup>th</sup> Precinct.

***Allegation A: PO Matthew Castel threatened to issue summons to § 87(2)(b)***

§ 87(2)(b) alleged that PO Castel threatened to issue a summons to him if he did not move his vehicle. § 87(2)(b)'s own statements to the 911 operator confirmed that his vehicle was on the sidewalk and that he moved the vehicle to allow other customers to use the facilities. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

***Allegation B: PO Anthony Salato spoke rudely to § 87(2)(b)***

§ 87(2)(b) alleged that PO Salato told him to "get off the fucking phone!" The 911 tape recorded § 87(2)(b) and PO Salato's conversation during which he allegedly said the preceding statement. In the recording PO Salato's voice is audible asking § 87(2)(b) to "get off phone." § 87(2)(b) informed PO Salato that he was calling the police. PO Salato responded by saying, "That's fine. Please get off phone, I need to speak with you." The remainder of the conversation was similar in context. § 87(2)(g)

§ 87(2)(b)

***Allegation C: PO Anthony Salato made remarks to § 87(2)(b) based upon race.***

§ 87(2)(b) alleged that PO Salato told him to "shut up" and that he was going to jail because he was "a stupid nigger." § 87(2)(g)

§ 87(2)(b)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: